

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

HARTFORD FIRE INSURANCE CO.)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 03-12502 NMG
)	
EASTERN CONTRACTORS, INC.)	
)	
Defendant / Third Party Plaintiff,)	
)	
v.)	
)	
CITY OF LAWRENCE, CITY OF FALL)	
RIVER, and FREETOWN/LAKEVILLE)	
REGIONAL SCHOOL DISTRICT,)	
)	
Third Party Defendants.)	
)	

AFFIDAVIT OF CHARLES E. SCHAUB, JR.

1. I, Charles E. Schaub, Jr., am an attorney with Hinckley, Allen & Snyder LLP which has represented the Third-party Defendant, City of Lawrence (the “City”), in this matter.

2. The City filed a Request for Production of Documents to determine in part, whether Eastern Contractors, Inc. (“Eastern”), the Third-Party Plaintiff, had complied with the contract requirements to enable it to assert the claim submitted by the Plaintiff against the City.

3. Pursuant to a Request for Production of Documents by the City to Eastern, an inspection and review of the project documents within the possession, custody and control of Eastern was conducted on April 14, 2006 by Chad Hershman, an associate of Hinckley, Allen & Snyder. The results of his review are further set forth in his affidavit.

4. Mr. Hershman did not find any documents that establish that Eastern ever transmitted or forwarded the S&R Construction Company, Inc. ("S&R") claim letters dated November 18, 2002 and December 5, 2002 to the Architect or City Representatives as required by the contract.

5. Subsequently, I contacted Edward Quinlan, attorney for Eastern, by telephone. I requested that Mr. Quinlan forward any notices or documents to establish that Eastern had timely complied with the contract requirements for the submission of claims as no such documents were found in the records of Eastern that were made available to us.

6. On June 1, 2006, I sent a letter to follow-up on our telephone conversation and requested again to be provided with any such documents. A true copy of this letter is attached hereto as Exhibit A.

7. On June 9, 2006, I again wrote to Mr. Quinlan requesting that Eastern provide any such notices in order to avoid having to file this Motion for Partial Summary Judgment. A true copy of this letter is attached as Exhibit B.

8. Despite these requests, no such documentation was ever forwarded nor was any explanation proffered that would explain or justify the lack of such notice and documentation.

9. Accordingly, the City has filed this Motion for Partial Summary Judgment.

Subscribed and sworn to under the pains and penalties of perjury this 15th day of September 2006.

/s/ Charles E. Schaub, Jr.

CHARLES E. SCHAUB, JR., ESQ.